

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

IN RE:

APPROVING A MEMORANDUM OF UNDERSTANDING)
BETWEEN LEWIS COUNTY AND VIRGIL R. FOX FOR THE) **RESOLUTION NO. 04- 309**
PURPOSE OF REVIEW AND PROCESSING THE FULLY)
CONTAINED COMMUNITY APPLICATION SUBMITTED)
BY VIRGIL R. FOX AND AUTHORIZING SIGNATURES)

WHEREAS, the Board of County Commissioners has reviewed and authorized a Memorandum of Understanding between Lewis County and the Virgil R. Fox in consideration of mutual promises and undertakings for processing the application and environmental review documents in conjunction with a Fully Contained Community application submitted by Fox; and

WHEREAS, the Board has determined that it would be prudent for the County and Virgil R. Fox to enter into said mutual agreement; and

WHEREAS, it is in the best interests of the public to enter into the Memorandum of Understanding between Lewis County and Virgil R. Fox; NOW THEREFORE

BE IT RESOLVED by the Board of County Commissioners of Lewis County, Washington that the aforesaid Memorandum of Understanding is hereby approved, and the Chief of Staff is authorized to sign the same.

DONE IN OPEN SESSION this ^{13th} ~~23rd~~ day of ~~August~~ ^{September}, 2004.

APPROVED AS TO FORM:

Jeremy Randolph, Prosecuting Attorney

By: _____

Deputy Prosecuting Attorney

ATTEST:

Karisa Duffey, Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**

Chairman

Member

Member



MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT is made the 13 day of September, 2004, between, VIRGIL R. FOX ("Fox") and LEWIS COUNTY ("Lewis County" or "County").

RECITALS

WHEREAS, Fox has filed an application dated April 20, 2000 for a Fully Contained Community site under the provisions of RCW 36.70A.350 located in Onalaska (the "Application").

WHEREAS, Lewis County has the authority to consider and site Fully Contained Communities under the provisions of RCW 36.70A.350 and has provided for the consideration of such projects through the provisions of Chapter 17.20 Lewis County Code.

WHEREAS, Lewis County has represented and Fox has acknowledged that no public funding for County review and processing of his proposal has been budgeted by the County, including for 2004, nor has the County received any commitment by the State for public funding of county review and processing of this project.

WHEREAS, the project is a complex application, addressing a number of issues as spelled out in the referenced RCW and County Code sections. Proceedings are anticipated before the Planning Commission, the County Environmental Review Officer (SEPA), the County Hearings Examiner, and ultimately the Board of County Commissioners. The Application, if approved, would result in an amendment of the Lewis County Comprehensive Plan and development regulations as provided in Chapter 17.20 LCC.

WHEREAS, Fox has, in his Application, requested Lewis County to act under the State Environmental Policy Act ("SEPA") to proceed directly to issuance of a determination of significance and scoping for an Environmental Impact Statement as authorized by WAC 197-11-232.

NOW THEREFORE, in consideration of the mutual promises and undertakings in this Memorandum of Understanding, the parties agree as follows:

REVIEW AND PROCESSING OF APPLICATION

The following steps for review have been completed:

1. A meeting between Fox and Lewis County to discuss preliminary program review, review process and timing was held in April, 2000 .

2. Fox filed his Application, including attachments, on April 20, 2000.

Lewis County provided a letter of on May 8, 2000 after receipt of a complete Application, as identified in 2 above.

3. Fox and Lewis County desire to maximize public participation in the review processes of the Application. Thus, the County issued a determination of significance, adoption of existing environmental documents, and notice of preparation of supplemental environmental impact statement on October 25, 2000.

5. A Draft Supplemental Environmental Impact Statement for the Birchfield Master Planned Community was published on November 21, 2000.

6. Following receipt of comments and consultation with the County, Fox agreed to prepare a new EIS to incorporate comments and address issues raised following publication of the Supplemental DEIS.

7. The following steps for review and approval are still necessary for the Birchfield FCC:

- A. The County shall publish a scoping notice and take comments on the scope of environmental review of the proposed project.

- B. Following final scoping, Fox shall prepare a Draft EIS (DEIS) for review by the County and consultants. Once the County has determined the adequacy of the Draft EIS, the County shall publish the DEIS and publish notice of same, pursuant to SEPA requirements.

- C. After all comments are received on the DEIS, Fox shall prepare a Final Environmental Impact Statement (FEIS), incorporating the comments received on the DEIS. A draft FEIS shall be prepared by Fox for review by the County, consultants and agencies. The County and consultants shall consult with Fox in preparation of a FEIS. Once the County is satisfied as to the adequacy of the FEIS, Fox shall prepare the document and the County will publish as required by SEPA.

- D. Hearings for the Hearings Examiner review process under Chapter 17.20 LCC will be scheduled before the Hearings Examiner once the FEIS is complete. The hearing before the Hearings Examiner will be held jointly with the required hearing before the Planning Commission, consistent with rules adopted by the Board of County Commissioners.

- E. The County will address, in consultation with Fox and consistent with the County public participation program, a public participation plan consistent with the size, nature, and location of this project to assure adequate public participation under GMA.

- F. Fox will provide accurate, complete, and timely information so as to enable the County to process the Application in a timely and adequate manner. In the event of delays in processing of the applications resulting from Fox failure(s) to provide accurate, complete, or